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Ms C Witham, County Solicitor
Legal Services
Somerset County Council
County Hall
Taunton
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Date: 10 January 2013

Dear Madam

**HIGHWAYS ACT 1980
ACQUISITION OF LAND ACT 1981**

**THE COUNTY COUNCIL OF SOMERSET (BRIDGWATER & TAUNTON CANAL
BRIDGE) SCHEME 2011 ("the Scheme");**

**THE COUNCIL OF THE COUNTY OF SOMERSET (TAUNTON NORTHERN INNER
DISTRIBUTOR ROAD A3087) (SIDE ROADS AND OTHER WORKS) ORDER 2011
("the SRO");**

**THE COUNTY OF SOMERSET (TAUNTON NORTHERN INNER DISTRIBUTOR
ROAD) COMPULSORY PURCHASE ORDER 2011 ("the CPO") and**

**APPLICATION FOR EXCHANGE LAND CERTIFICATE - under section 19(1)(a) of the
Acquisition of Land Act 1981 and Notice of Intention to issue a Certificate
("Certificate").**

1. We are directed by the Secretary of State for Transport and the Secretary of State for Communities and Local Government ("the Secretaries of State") to refer to the concurrent public local Inquiries ("the Inquiries") held at Taunton Rugby Club, Hyde Lane,

Taunton, Somerset, TA2 8BU, on 15 May 2012 and 16 May 2012 before Mr Martin Whitehead, LLB, BSc(Hons), CEng, MICE, which were closed in writing on 30 May 2012. Mr Whitehead is an Inspector appointed by the Secretaries of State to hear objections to and representations about the above named Scheme, Orders and Certificate application submitted by Somerset County Council ("the Council"). Following their consideration of the Inspector's report, this letter conveys the decisions of the Secretary of State of State for Transport (SSfT) on the above named Scheme and Orders, and the decision of the Secretary of State for Communities and Local Government (SSCLG) on the Certificate.

2. The Scheme, the SRO and the CPO would respectively, authorise Somerset County Council ("the Council") to:

- (i) construct over the navigable waters of the Bridgwater & Taunton Canal the bridge specified in the schedule to this scheme as part of the highway they are proposing to construct and improve between the A3027 Staplegrove Road and the A3038 Priory Bridge Road in the Borough of Taunton in the County of Somerset;
- (ii) stop up, construct and improve highways, stop up private means of access to premises and provide new means of access to premises, all on or in the vicinity of the route of the classified road known as the A3087 from Staplegrove Road to Priory Bridge Road, which the Council propose to construct from a point on Staplegrove Road 190 metres to the south east of the overbridge over the railway in an easterly direction for a distance of 760 metres to Station Approach and from a point 60 metres north of the Bridgwater to Taunton Canal in a southerly direction for a distance of 130 metres to Priory Park; and
- (iii) acquire compulsorily the land and rights over the land described therein for the purposes of the construction of the classified road described in (ii) above; the improvement and re-alignment of Staplegrove Road (part), Chip Lane (part) and Station Approach (part); improvement of the junctions of Higher Palmerston Road and Chip Lane with Staplegrove Road and Priory Avenue and Priory Park with Priory Bridge Road; the construction of other highways, improvement of existing highways and the provision of new means of access to premises in the vicinity of the route of the above-mentioned highway in pursuance of The Council of the County of Somerset (Taunton Northern Inner Distributor Road A3087) (Side Roads and other Works) Order 2011; mitigating the adverse effects, which the existence or use of the highways proposed to be constructed or improved as mentioned above, will have on their surroundings; and use by the Council in connection with the construction and improvement of the aforementioned highways.

3. The Council have asked the SSCLG to issue a Certificate under section 19(1)(a) of the Acquisition of Land Act 1981 for the giving of exchange land shown on the CPO plan as plots 19 and 21, to permit the compulsory acquisition of plot 31 designated as "open space" in the CPO. A further 353 sq metres of exchange land, acquired by agreement with Taunton Deane Borough Council, would be provided to the immediate west of the existing public open space. The legislation requires that this exchange land should be no less in area and equally advantageous to the persons, if any, entitled to rights of common or other rights and to the public; and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested and subject to the like rights, trusts and incidents as attach to the land purchase.

THE INSPECTOR'S REPORT

4. The Inspector has considered all the objections to and representations about the above Scheme, Orders and Certificate, both as made in writing and presented orally at the Inquiry, and has submitted his report to the Secretaries of State. A copy of that report is enclosed with this letter. References in this letter to the Inspector's report are indicated by the abbreviation "IR" followed by the paragraph number in the report.

5. The Inspector's report summarises the case for the Council at IR 4.1 to IR 4.17; the case for the objectors at IR 5.1 to IR 5.28; and the Council's rebuttal to individual objections at IR 6.1 to IR 6.25. The Inspector's conclusions are recorded at IR 7.1 to IR 7.43 and his recommendations are at IR 8.1.

6. In light of his conclusions, the Inspector recommended at IR 8.1 that the SRO be modified as set out in Inquiry Document ID12 and that the SRO so modified be confirmed; that the CPO be modified as set out in Inquiry Documents ID10 (Drawing No SCC/NIDR/OR/1100-D) and ID11 and that the Order so modified be confirmed; and that the Scheme be confirmed as made. These modifications are described as follows:

SRO

- a. delete from the classified road definition 3(b)(i); and (iv); and renumber (ii) and (iii) to (i) and (ii);
- b. modify measurements of the lengths of classified road to be constructed;
 - (i) construct from a point on Staplegrove Road 125 metres to the south east of the overbridge over the railway in an easterly direction for a distance of 865 metres to Station Approach; and
 - (ii) construct from a point 33 metres north of the Bridgwater to Taunton Canal in a southerly direction for a distance of 160 metres to Priory Park.
- c. item 2 of the highways to be stopped up - the measurement of Footpath T33/14 from its junction with Cycle Track T33/18 will be changed to 150 metres.

CPO

- d. delete purpose 2.1(7) and take out the word 'part' from 2.2. Add plot 43 to Schedule 2 Table 1 (Exchange Land) and include 43 on Exchange Plots as section 19 of the Acquisition of Land Act 1981; and
- e. replace Drawing No SCC/NIDR/OR/1100-C with Drawing No SCC/NIDR/OR/1100-D.

7. In addition to those modifications to the SRO and CPO outlined at paragraph 6 above, the SSfT proposes to make a minor modification to the Scheme, which has been agreed to by the Council, and which is to incorporate the Schedule to the Scheme.

POST INQUIRY CORRESPONDENCE ON THE SCHEME, THE ORDER AND THE CPO

8. Following the close of the Inquiry, correspondence on the Scheme, the Order and the CPO has been received by the SSfT from Davitt Jones Bould on behalf of the Council and from Geldards on behalf of J Gliddon & Sons Limited. The Council's correspondence is in response to representations put to the Inspector by Geldards before the Inquiry closed. Geldards' further correspondence is in response to the Council's comments.

THE DECISION OF THE SECRETARY OF STATE FOR TRANSPORT

9. The SSfT has noted the legal submission recorded in IR 3.1 and IR 3.2, together with the submitted documents referred to therein, and the Council's response at IR 3.3 and IR 3.4. The SSfT has also considered the Inspector's opinion on this matter at IR 7.3 to IR 7.5 and agrees that this is a matter of law which only the Courts can authoritatively determine. Nevertheless, the SSfT agrees with the Inspector at IR 7.5 and is therefore satisfied that insufficient evidence has been presented to show that it is unlawful to treat the roundabout as permitted development under the 1995 Order, and for this reason does not see this as an impediment for the purposes of reaching a decision on the Scheme and Orders.

10. The SSfT has considered carefully all the objections to, and representations about, the Scheme and Orders. He has considered the Inspector's report and agrees with his conclusions for the reasons given by the Inspector and accepts his recommendations.

11. The SSfT has also carefully considered the matters raised in the post-inquiry correspondence alongside the Inspector's report in reaching his decision. However, he is satisfied that nothing new is raised in this correspondence that has not already been adequately addressed by the Inspector, or which causes him to disagree with the Inspector's conclusions and recommendations.

12. The SSfT has carefully considered whether the purposes for which the CPO is required sufficiently justify interfering with the human rights of the objectors, owners and lessees and he is satisfied that they do. In particular, he has considered the provisions of Article 1 of The First Protocol to the European Convention on Human Rights. In this respect, the SSfT agrees with the Inspector's conclusion at IR 7.41 and IR 7.42 and is satisfied that, in confirming the CPO, a fair balance has been struck between the public interest and interests of the objectors, owners and lessees.

13. The SSfT does not consider that the objections, singly or together, constitute grounds for not proceeding with the proposals, and accepts that the modifications referred to in paragraphs 6 and 7 above which, in the opinion of the SSfT, are not substantial and therefore, as they are regarded as necessary, should be included into the Scheme and Orders. For these reasons the SSfT has decided, as none of these modifications affect the substance of the Scheme and Orders or have any practical impact on those affected by them (IR 4.12), to confirm the Scheme, the SRO and the CPO referred to above, and this letter constitutes his decision to that effect.

14. In confirming the Scheme and Orders, the SSfT has relied on the information that the Council and others have provided, as contained in the Orders and any related plans, diagrams, statements or correspondence as being factually correct. This decision on confirming these orders is given on this basis.

THE DECISION OF THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT ON THE OPEN SPACE CERTIFICATE

.Exchange Land Certificate

15. A section of 276 sq m, deemed as public open space within the terms of section 19 of the Acquisition of Land Act 1981 (IR4.16), would become public highway at the north end of Priory Park south of the River Tone. An area of 428 sq m at the southern side of Station Approach would be acquired by the CPO and given in exchange. A further 353 sq m of exchange land, acquired by agreement with Taunton Dean Borough Council, would be provided to the immediate west of the existing public open space.

16. When the inquiry opened there were 3 objections to the application for a Certificate outstanding. Prior to the close of the inquiry 2 objections to the Certificate were withdrawn. The remaining objector to the Certificate was J Gliddon and Sons Ltd, represented by Geldards LLP.

17. The SSCLG advised in his letter of 11 October 2012 that representations from Geldards LLP on behalf of J Gliddon and Sons Ltd and dated 25 April 2012 were sent to him prior to the Inspector opening the inquiry but were not received until after the Inquiry closed and therefore not considered by the Inspector. The SSCLG therefore circulated this correspondence to the parties to the Inquiry, inviting any additional comments. Replies were received from Geldards. The SSCLG has had regard to this further correspondence and has concluded that it does not raise any material matters not addressed at the inquiry. Copies of this correspondence may be obtained from the SSCLG at the address at the head of this letter.

18. For the reasons given at IR 7.40, the SSCLG agrees with the Inspector that the exchange land which has been included in the modified CPO would be greater in area and equally advantageous to the people within the adjacent Priory Park residential estate and more advantageous to the public than the public open space land that would be acquired. He therefore concludes that the criteria for Section 19(1)(a) have been met.

COMPENSATION

19. Details of compensation arising as a consequence of confirmation of a CPO are for negotiation with the acquiring authority and not the SSfT. Accordingly, owners and occupiers of land included in the CPO will need to be approached by the Council about the amount of compensation payable to them in respect of their interests in the land required for the proposals. If the amount cannot be agreed the matter may be referred for determination by the Lands Tribunal under the Lands Tribunal Act 1949 and the Land Compensation Act 1961.

AVAILABILITY OF DOCUMENTS

20. A copy of this letter, together with a copy of the Inspector's report has been sent to objectors, and to other persons who appeared and made representations at the Inquiry. Copies will be made available on request to any other persons directly concerned and can also be viewed on

<https://www.gov.uk/government/organisations/department-for-transport/series/highways-act-inspectors-reports-and-decision-letters>.

Please arrange for a copy of the Inspector's report and of this letter to be made available for inspection at the offices of the Council and at all other places used to deposit the Scheme and Orders for public inspection at making stage. Any person entitled to a copy of the Inspector's report may apply to the SSfT, at the address at the head of this letter within 6-weeks of the receipt of this letter, to inspect any document, photograph or plan submitted by the Inspector with the Inspector's report. Those documents, photographs or plans, are retained at the office of the SSfT, and will be made available at a local place of inspection.

RIGHT OF CHALLENGE

21. Notice is to be published of confirmation of the Scheme and Orders above. Any person who wishes to question the validity of their confirmation, or any particular provision contained therein, on the grounds that the SSfT has exceeded his powers or has not complied with the relevant statutory requirements in confirming them may, under the provisions of Schedule 2 to the Highways Act 1980 and section 23 of the Acquisition of Land Act 1981, do so by application to the High Court. Such application must be made within six-weeks of publication of the notice that the Scheme and Orders have been confirmed. The High Court cannot entertain an application under the said Schedule 2 or section 23 before publication of the notice that the SSfT has confirmed the Scheme and Orders.

Yours faithfully

Authorised by the Secretary of State for
Transport to sign on that behalf

Victoria Pointer

Authorised by the Secretary of State for
Communities and Local Government to
sign on that behalf

Jean Nowak